



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

February 5, 1991

Mr. William J. Delmore, III
General Counsel
Office of the District Attorney
201 Fannin, Suite 200
Houston, Texas 77002

OR91-074

Dear Mr. Delmore:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10964.

We have reviewed the documents at issue and have considered the exception you claimed, specifically 3(a)(1), which excepts from required disclosure information deemed confidential by law. You assert that the prosecutor's notes, which concern the mental health of a victim of an assault, are made confidential by the common law right of privacy. We agree.


Information is protected from disclosure by the common law right of privacy, if it contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668, 682-685 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). This office has said that medical information raises a claim of common law privacy if it relates to, inter alia, emotional or mental distress. Open Records Decision No. 262 (1980). We think the information in this case meets the test for protection from disclosure by the common law right of privacy. See also Open Records Decision No. 579 (1990).

Because case law and prior published open records decisions resolve your request, we are resolving this matter

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with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-074.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/le

Ref.: ID# 10964

Enclosure: Open Records Decision Nos. 579, 262